IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

WRIT PETITION NO. 824 OF 2006

Shri Vitthal Govind Warankar & Ors. ... Petitioners

V/s.

The Malleable Iron & Steel
Castings Co.Pvt.Ltd. and Ors. ... Respondents

....

Ms. Ketki Rege with Mr. Vinod Shetty for the Petitioners.

Mrs. Soumya Srikrishna i/b. Kanga & Co. for Respondent Nos.1 to 3.

....

CORAM : DR. D.Y.CHANDRACHUD,J.

23RD JANUARY 2007.

P.C. :

1. The Industrial Court has dismissed a complaint of Unfair Labour Practice filed by 13 workmen by the order which is impugned in these proceedings. During the pendency of the complaint, 6 out of 13 complainants settled the dispute. As a result the proceedings survived in relation to 7 workmen. 5 of them have instituted proceedings before this Court under Article 226 of the Constitution of India.

2. The Industrial Court in holding that the

complaint of Unfair Labour Practices under the M.R.T.U. & P.U.L.P. Act, 1971 was barred by limitation adverted to the evidence of 6 of the complainants, in paragraph 17 of the impugned order dated 1st October 2005. The complainant workmen in question were dismissed from service during the period between 1982 and 1984. The complaints of Unfair Labour Practice were filed only in the year 1997. The Industrial Court noticed that none of the complainants had challenged the orders of termination/dismissal before the Competent Forum. The case of the workmen was that some workmen were paid an amount representing their dues in January 1997 and that consequently, the institution of the complaint in 1997 cannot be regarded as barred by limitation. On the other hand, it would appear from the order of the Industrial Court that the four employees who were paid in January 1997 were in fact covered by two pending references being Reference (IT) No.31 of 1986 and Reference (IDA) No.341 of 1988. Their cases are clearly distinguishable because those workmen had adopted proceedings in 1986 and 1988 in accordance with law which were pending.

3. In so far as the Petitioners are concerned, the finding of the Industrial Court that there was an unexplained delay of nearly 15 years in filing proceedings before the Industrial Court cannot be held to be in error, in these proceedings under Article 226 of the Constitution. The Petition will have to be dismissed.

4. During the course of the hearing of the Petition I had enquired with Counsel appearing on behalf of the Management as to whether the Management, without prejudice to its contentions is willing to offer to the Petitioners the same settlement of their legal dues as was offered to the other six workmen who had also moved the Industrial Court together with the Petitioners herein. The evidence of the First Petitioner shows that out of the 13 complainants, 6 received payments of Rs.21,000/-, Rs.35,000/- and Rs.25,000/- individually. Counsel appearing on behalf of the Management stated that without creating a precedent in the future and without prejudice to the contention of the Management that the complaint is barred by limitation and purely on

humanitarian grounds the management does offer Rs.30,000/- in full and final settlement of all the claims, dues and outstandings to each of the Petitioners before the Court. Counsel appearing on behalf of the Petitioners has been unable to make a statement whether the Petitioners would be ready and willing to accept the offer of the Management. The Court has been informed that the Management would keep the offer open for a period of 8 weeks from today and to any of the Petitioners who are willing to accept the amount offered, in full and final settlement, the Management will pay the aforesaid amount within a period of one week from the date of the receipt of intimation by the Petitioner concerned. Statement accepted.

5. In the circumstances, the Bank Guarantee that was furnished to the Industrial Court and which was continued in pursuance of the interim order dated 10th April 2006 shall stand discharged.

6. The Petition is, subject to the aforesaid, dismissed.